

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 19, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RAYMOND WETMORE-TINNEY,

Petitioner,

v.

CHIEF HOOPER (Spokane County
Jail), JOHN DOE (Asotin County
Jail), and JOHN DOE (Washington
Dept of Corrections),

Respondents.

No. 2:25-CV-00037-SAB

**ORDER DENYING MOTION FOR
RECONSIDERATION**

Before the Court is Petitioner Raymond Wetmore-Tinney's *pro se* Motion for Reconsideration. ECF No. 17. The motion was heard without oral argument. Having reviewed the pleadings and the file in this matter, the Court is fully informed and denies the motion.

Petitioner commenced this habeas action while incarcerated at the Asotin County Jail. ECF No. 1. He was then transferred to the custody of the Washington State Department of Corrections and subsequently released. ECF Nos. 9 and 15. Petitioner has paid the \$5.00 filing fee. Respondents have not been served.

A motion for reconsideration may be reviewed under either Federal Rule of Civil Procedure 59(e) (motion to alter or amend a judgment) or Rule 60(b) (relief from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir.

1 1993). “A district court may properly reconsider its decision if it ‘(1) is presented
2 with newly discovered evidence, (2) committed clear error or the initial decision
3 was manifestly unjust, or (3) if there is an intervening change in controlling law.’”
4 *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting *Sch.*
5 *Dist. No. 1J*, 5 F.3d at 1263). “There may also be other, highly unusual,
6 circumstances warranting reconsideration.” *Sch. Dist. No. 1J*, 5 F.3d at 1263.
7 These standards apply in habeas corpus proceedings under 28 U.S.C. § 2254 to the
8 extent they are not inconsistent with applicable federal statutory provisions and
9 rules. *See Gonzalez v. Crosby*, 545 U.S. 524, 530 (2005).

10 By Order filed April 8, 2025, the Court dismissed this action as premature
11 under *Younger v. Harris*, 401 U.S. 37, 41, 45 (1971). It is not clear from
12 Petitioner’s submissions whether he received a copy of the Court’s prior Order to
13 Show Cause why this action should not be dismissed as premature, ECF No. 8. *See*
14 ECF No. 17. None of his attached notices reference the Order to Show Cause. ECF
15 No. 17-1. Regardless, after careful review of Petitioner’s Motion, ECF No. 17, the
16 Court finds that Petitioner has still not presented facts demonstrating that he is
17 entitled to federal intervention at this time. *See Younger*, 401 U.S. at 45.

18 Petitioner asserts that he “was kept past his release date because the jails
19 didn’t send his jail time credits for which he spoke to his attorney for a month and
20 a half everyday on the phone about.” ECF No. 17 at 1–2. He accuses this Court of
21 failing to provide him a video hearing, although he provides no authority entitling
22 him to a video hearing and he does not state what such a hearing would
23 accomplish. *Id.* at 2. This Court has no authority to direct the actions of state courts
24 in the performance of their duties. *Clark v. State of Washington*, 366 F.2d 678,
25 681-82 (9th Cir. 1966) (holding that “federal courts are without power to issue
26 writs of mandamus to direct state courts or their judicial officers in the
27 performance of their duties”).

28 Petitioner asserts that he was denied access to the court, subjected to

1 malicious prosecution, and denied his case file to adequately exhaust his state court
2 remedies. *Id.* In any event, the failure to fully exhaust state court remedies
3 concerning his challenged conviction would preclude a federal habeas court from
4 granting Petitioner relief. *See* 28 U.S.C. § 2254(b)(1)(A).

5 In this instance, Petitioner has not presented newly discovered evidence. *See*
6 *Sch. Dist. No. II*, 5 F.3d at 1263. Petitioner has not shown that the Court
7 committed clear error or that the dismissal Order was manifestly unjust.
8 Furthermore, there has been no intervening change in controlling law and there are
9 no other circumstances warranting reconsideration. *Id.*

10 Accordingly, **IT IS ORDERED:**

- 11 1. Petitioner's Motion for Reconsideration, ECF No. 17, is **DENIED**.
- 12 2. The file shall remain **closed**.
- 13 3. The Court certifies that there is no basis upon which to issue a
14 certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A
15 certificate of appealability is therefore **DENIED**.

16 **IT IS SO ORDERED.** The Clerk of Court shall enter this Order, enter
17 judgment, provide copies to Petitioner at his last known address and **close** the file.

18 **DATED** this 19th day of May 2025.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

24 Stanley A. Bastian
25 Chief United States District Judge
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